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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
- v -	:	VERIFIED COMPLAINT FOR FORFEITURE
$3,320,043.08 IN UNITED STATES CURRENCY,	:	17 Civ. ______
	:	
Defendant-in-rem.		

Plaintiff United States of America, by its attorney, Joon H. Kim, Acting United States Attorney for the Southern District of New York, for its Verified Complaint (the "Complaint") alleges upon information and belief as follows:

JURISDICTION AND VENUE

1. This action is brought by the United States of America pursuant to Title 18, United States Code, Sections 981(a)(1)(A), 981(a)(1)(C), and 1955(d) seeking the forfeiture of $3,320,043.08 in United States Currency (the "Defendant Funds" or the "Defendant-in-Rem").

2. This Court has jurisdiction pursuant to Title 28, United States Code, Section 1355(b)(1)(A) because acts and omissions giving rise to the forfeiture of the Defendant Funds took place in the Southern District of New York.

3. Venue is proper pursuant to (i) Title 28, United States Code, Section 1395(b) because the Defendant Funds are in the Southern District of New York, (ii) Title 28, United States Code, Section 1395(c) because the Defendant Funds were seized outside the Southern District of New York but then transferred to the Seized Assets Deposit Fund bank account at the Federal Reserve Bank located in the Southern District of New York, and (iii) Title 18, United States Code, Section 981(h) because the criminal prosecution of the owner of the Defendant Funds took place in the Southern District of New York.

4. As set forth below, there is probable cause to believe that the Defendant Funds contains property involved in actual or attempted money laundering transactions, or property traceable to such property, in violation of Title 18, United States Code, Section 1956(a)(2)(A). As such, the contents of the Defendant Account is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(A).

5. In addition, there is probable cause to believe that the Defendant Account contains property that constitutes or is derived from proceeds traceable to the operation of an illegal

gambling business, in violation of Title 18, United States Code, Section 1955, and the illegal transmission of gambling information, in violation of Title 18, United States Code, Section 1084, and property used in the operation of an illegal gambling business and commission of the gambling offense. As such, the Defendant Funds are subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981 (a) (1)(C) and 1955 (d).

Probable Cause for Forfeiture

6. Internet gambling businesses which, although typically based offshore, predominantly serve players based in the United States, in violation of, among other statutes, Title 18, United States Code, Section 1955. These gambling businesses offer "real money" casino games, poker, and sports betting to United States players. As a result, these gambling businesses necessarily rely on the United States financial system to move funds between the offshore accounts of the gambling businesses and the United States bank accounts of their customers.

7. One method internet gambling businesses use to obtain funds from United States customers is to debit the bank accounts of the United States players using the Automated Clearing House, also known as "ACH" system. The ACH system, which is administered by the Federal Reserve, allows for fast and efficient electronic funds transfers between banks. Gambling merchants (and payment processors who serve them) use the ACH system to collect,

or "batch," money obtained from bettors at bank accounts. Once the batched money has accumulated, the batched money may be wire-transferred or otherwise sent to the gambling merchant's account at another bank. This process is relatively oblique to the customer. A customer logs onto the web site of an internet gambling company and chooses "e-check" or some similarly described option and enters her or her United States bank account information. The merchants then use the services of a United States ACH provider (or use the services a processing company that in turn relies on a United States ACH provider) to debit the funds from the United States bank account and transfer it to accounts, often offshore, controlled by the gambling merchant.

ACH Direct's History with Gambling Merchants

8. Several companies provide ACH services to merchants. ACH Direct Inc. is one such provider. Prior to January, 2007, ACH Direct provided ACH services to internet gambling businesses through payment processors for these businesses, enabling these businesses to debit funds from the bank accounts of United States customers. ACH Direct provided substantial processing for Neteller PLC, an "e-wallet" that allowed United States customers to fund a virtual account with Neteller and then transfer the funds in this so-called "e-wallet" to accounts maintained by gambling companies. Although customers could theoretically use Neteller's e-wallet for non-gambling purposes,

Neteller's e-wallet was in fact overwhelmingly used for gambling. In January 2007, two founders of Neteller PLC were arrested and millions of dollars of Neteller PLC funds were seized through seizure warrants, including approximately forty-six million dollars held in bank accounts by ACH Direct.

9. Since the actions against Neteller in January, 2007 (together with the enactment of the Unlawful Internet Gambling Enforcement Act, or UIGEA, in law 2006), internet gambling businesses have generally either (i) stopped doing business with United States customers or (ii) taken steps to avoid detection. Internet gambling merchants still, however, seek to obtain funds from United States customers, including through the ACH system. Gambling merchants and their associated payment processors continue to seek to enter into business relationships with ACH service providers such as ACH Direct and, in an attempt to obtain such business, often falsely describe the true nature of their business.

ACH Direct's Dealings with DraftLink

10. There is probable cause to believe that DraftLink LLC is a payment processor for an internet gambling business, and that the Defendant Funds are proceeds of such a business.

11. According to information obtained from and employee at Account Direct (Employee 1) informed me that in approximately May, 2008 an Independent Sales Organization ("ISO") approached

ACH Direct about a potential client called DraftLink LLC. According to a letter submitted by the ISO and an application submitted by DraftLink LLC itself, DraftLink LLC claimed to be in the business of providing payday lending services. Employee 1 further advised that ACH Direct followed up with representatives of the ISO and DraftLink LLC and was informed that DraftLink LLC offered payday loans over the internet and then collected repayments of those loans electronically, via the ACH system. Employee 1 advised that DraftLink LLC expressed interested in using ACH Direct for this service and that ACH Direct agreed. ACH Direct ultimately negotiated an agreement that mandated that the first $2,000,000 received by ACH Direct from DraftLink LLC customers via the ACH system would be held by ACH Direct as a reserve (reserves are commonly maintained to address chargebacks or other customer disputes).

12. Employee 1 advised that in approximately June, 2008 ACH Direct began processing transactions for DraftLink LLC. Employee 1 further advised that, after approximately one week of processing, ACH Direct observed certain suspicious activity that caused ACH Direct to conclude that DraftLink LLC was not in the payday loan business and was in fact involved in illegal gambling, including the following:

a. ACH Direct noted that many of the debits from United States customers for DraftLink LLC were in amounts of hundreds of dollars, and, in numerous cases, the same customers would make deposits several days in a row. ACH Direct had processed payments for other payday lenders before and, in the experience of ACH Direct, true repayments of payday loans were typically for smaller dollar amounts and were made at regular periodic intervals(such as weekly) and not several days in a row.

b. ACH Direct looked at the websites through which DraftLink LLC supposedly offered the payday loans and did not find any means through these sites for customers to actually take out or repay such loans.

c. Employee 1 initially checked some of the names of the individuals whose accounts were debited through DraftLink LLC and found that several of these individuals had previously been customers of Neteller PLC - an "e-wallet" used predominantly for gambling. A further more comprehensive study by ACH Direct revealed that approximately 30% to 35% of the U.S. bank accounts making supposed "payday" loan payments to Draftlink LLC through ACH Direct previously had been used to fund e-wallet accounts with Neteller PLC.

d. When ACH Direct asked representatives of DraftLink LLC, to provide "proof of authorization" for a sampling of the transactions - that is, screen shots or some other proof that the customer had authorized DraftLink LLC to make the debit, and the purpose of the debit - DraftLink LLC was unwilling or unable to do so.

13. Employee 1 advised that, as a result of the above, ACH Direct informed representatives of DrafLink LLC and its ISO that it would stop processing transactions for DraftLink LLC and freeze its funds until these issues were resolved.

14. Employee 1 has advised that ACH Direct received approximately $3.2 million from DraftLink LLC before it ceased

processing transactions. The Defendant Funds represents those funds received from DraftLink.

FIRST CLAIM FOR FORFEITURE

15. The allegations contained in paragraphs 1 through 14 of this Verified Complaint are incorporated by reference herein.

16. Title 18, United States Code, Section 981(a)(1)(A) subjects to forfeiture "[a]ny property, real or personal, involved in a transaction or attempted transaction in violation of…section 1956…of this title, or any property traceable to such property."

17. Title 18, United States Code, Section 1956 provides, in pertinent part, that

> (a)(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States--
>
> (a) with the intent to promote the carrying on of specified unlawful activity

shall be guilty of a crime.

18. Title 18, United States Code, Section 1956(c)(7)(A) provides that the term "specified unlawful activity" includes "any act or activity constituting an offense listed in section 1961 (1) of this title." Included among the enumerated offenses in 18 Title, United States Code, Section 1961(1) is Title 18, United States Code, Section 1955, (related to the prohibition of (which prohibits

the operating of illegal gambling businesses) Title 18, United States Code, Section 1084 (related to the transmission of gambling information), and racketeering activity, which includes any act or threat involving gambling, among other things, which is chargeable under State law and punishable by imprisonment for more than one year.

SECOND CLAIM FOR FORFEITURE

19. The allegations contained in paragraphs 1 through 14 of this Verified Complaint are incorporated by reference herein.

20. Furthermore, Title 18, United States Code, Section 981(a)(1)(C) subjects to forfeiture:

> Any property, real or personal, which constitutes or is derived from proceeds traceable to…any offense constituting "specified unlawful activity" (as defined in section 1956(c)(7) of this title), or a conspiracy to commit such offense.

21. As noted in paragraph 20, supra, Title 18, United States Code, Section 1956(c)(7)(A) provides that the term "specified unlawful activity" includes "any act or activity constituting an offense listed in section 1961(1) of this title," and Section 1961 (1) includes Title 18, United States Code, Sections 1955 and 1084 among the enumerated offenses.

THIRD CLAIM FOR FORFEITURE

22. The allegations contained in paragraphs 1 through 14 of this Verified Complaint are incorporated by reference herein.

23. Title 18, United States Code, Section 1955 has its own forfeiture provision. Specifically, § 1955(d) provides that "[a]ny property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States."

WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the Defendant-in-rem and that all persons having an interest in the Defendant-in-rem be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the Defendant-in-rem to the United States of America for disposition according to law, and that this Court grant Plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: April 7, 2017
New York, New York

JOON H. KIM
Acting United States Attorney for
Plaintiff United States of America

By: ______________________________
NOAH FALK
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
(212) 637-1085

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK)
SOUTHERN DISTRICT OF NEW YORK)

Robert Cappadona, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and, as such, has responsibility for the within action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true to the best of his own knowledge, information, and belief.

The sources of the deponent's information and the grounds for his belief are his personal knowledge and the official records and files of the United States Government.

Dated: New York, New York
April 10, 2017

ROBERT CAPPADONA
Special Agent
Federal Bureau of Investigation

Sworn to before me this
10th day of April, 2017

Notary Public

RICHARD M WALSH
NOTARY
NO. 01WA4921016
QUALIFIED IN
KINGS COUNTY
COMM. EXP.
02/28/2019
PUBLIC
STATE OF NEW YORK